

1 E. MARTIN ESTRADA
United States Attorney
2 MACK E. JENKINS
Assistant United States Attorney
3 Chief, Criminal Division
KEDAR S. BHATIA (Cal. Bar No. Pending)
4 Assistant United States Attorney
General Crimes Section
5 1200 United States Courthouse
312 North Spring Street
6 Los Angeles, California 90012
Telephone: (213) 894-4442
7 E-mail: kedar.bhatia@usdoj.gov

8 Attorneys for Plaintiff
UNITED STATES OF AMERICA
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10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,
13 Plaintiff-Respondent,
14 v.
15 EDMOND GYULAMDZHYAN,
16 Defendant-Petitioner.

No. 2:05-cr-855-CAS
2:23-cv-9185-CAS

PROTECTIVE ORDER REGARDING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, PRIVACY
ACT INFORMATION, AND CONFIDENTIAL
INFORMANT INFORMATION [10]

19 The Court has read and considered the parties' Stipulation for
20 a Protective Order Regarding Discovery Containing Personal
21 Identifying Information, Privacy Act Information, and Confidential
22 Informant Information, filed by the government and defendant-
23 petitioner Edmond Gyulamdzhyan ("defendant") in this matter on March
24 20, 2024, which this Court incorporates by reference into this
25 order, and FOR GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as
26 follows:

27 1. The government's discovery in this case relates to
28 defendant's pending Petition for Writ of Error Coram Nobis, filed on

1 October 2, 2023.

2 2. A protective order for the discovery is necessary so that
3 the government can produce to the defense materials containing PII,
4 immigration status, immigration applications, and information that
5 may implicate privacy interests, including privacy interests
6 protected by federal regulations. The Court finds that disclosure of
7 this information without limitation risks the privacy and security
8 of the information's legitimate owners. Because the government has
9 an ongoing obligation to protect third parties' PII, the government
10 cannot produce to defendant an unredacted set of discovery
11 containing this information without this Court entering the
12 Protective Order. Moreover, PII make up a significant part of the
13 discovery in this case and such information itself, in many
14 instances, has evidentiary value. If the government were to attempt
15 to redact all this information in strict compliance with Federal
16 Rule of Criminal Procedure 49.1, the Central District of
17 California's Local Rules regarding redaction, and the Privacy Policy
18 of the United States Judicial Conference, the defense would receive
19 a set of discovery that would be highly confusing and difficult to
20 understand, and it would be challenging for defense counsel to
21 adequately evaluate the case, provide advice to defendant, or
22 prepare for trial.

23 3. An order is also necessary because the government intends
24 to produce to the defense materials that may contain information
25 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
26 Information"). The Court finds that, to the extent that these
27 materials contain Privacy Act information, disclosure is authorized
28 pursuant to 5 U.S.C. § 552a(b)(11).

1 4. The purpose of this Protective Order is therefore to
2 (a) allow the government to comply with its discovery obligations
3 while protecting this sensitive information from unauthorized
4 dissemination, and (b) provide the defense with sufficient
5 information to adequately represent defendant.

6 5. Accordingly, the discovery that the government will
7 provide to defense counsel in the above-captioned case will be
8 subject to this Protective Order, as follows:

9 a. As used herein, "PII Materials" includes (1) any
10 information that can be used to identify a person, including a name,
11 address, date of birth, Social Security number, driver's license
12 number, telephone number, account number, email address, or personal
13 identification number; and (2) any information that may implicate
14 privacy interests, including particular immigration applications and
15 status and privacy interests protected by federal regulations.

16 b. "Confidential Information" refers to any document or
17 information containing PII Materials that the government produces to
18 the defense pursuant to this Protective Order and any copies
19 thereof.

20 c. "Defense Team" includes (1) defendant's counsel of
21 record ("defense counsel"); (2) other attorneys at defense counsel's
22 law firm who may be consulted regarding case strategy in this case;
23 (3) defense investigators who are assisting defense counsel with
24 this case; (4) retained experts or potential experts; and
25 (5) paralegals, legal assistants, and other support staff to defense
26 counsel who are providing assistance on this case. The Defense Team
27 does not include defendant, defendant's family members, or any other
28 associates of defendant.

1 d. The government is authorized to provide defense
2 counsel with Confidential Information marked with the following
3 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
4 ORDER." The government may put that legend on the digital medium
5 (such as DVD or hard drive) or simply label a digital folder on the
6 digital medium to cover the content of that digital folder. The
7 government may also redact any PII contained in the production of
8 Confidential Information.

9 e. If defendant objects to a designation that material
10 contains Confidential Information, the parties shall meet and
11 confer. If the parties cannot reach an agreement regarding
12 defendant's objection, defendant may apply to this Court to have the
13 designation removed.

14 f. Defendant and the Defense Team shall use the
15 Confidential Information solely to prepare for any pretrial motions,
16 plea negotiations, trial, and sentencing hearing in this case, as
17 well as any appellate and post-conviction proceedings.

18 g. The Defense Team shall not permit anyone other than
19 the Defense Team to have possession of Confidential Information,
20 including defendant, while outside the presence of the Defense Team.

21 h. At no time, under no circumstance, will any
22 Confidential Information be left in the possession, custody, or
23 control of defendant, regardless of defendant's custody status.

24 i. Defendant may review PII Materials only in the
25 presence of a member of the Defense Team, who shall ensure that
26 defendant is never left alone with any PII Materials. At the
27 conclusion of any meeting with defendant at which defendant is
28 permitted to view PII Materials, defendant must return any PII

1 Materials to the Defense Team, and the member of the Defense Team
2 present shall take all such materials with him or her. Defendant may
3 not take any PII Materials out of the room in which defendant is
4 meeting with the Defense Team.

5 j. Defendant may see and review Confidential Information
6 as permitted by this Protective Order, but defendant may not copy,
7 keep, maintain, or otherwise possess any Confidential Information in
8 this case at any time. Defendant also may not write down or
9 memorialize any data or information contained in the Confidential
10 Information.

11 k. The Defense Team may review Confidential Information
12 with a witness or potential witness in this case, including
13 defendant. A member of the Defense Team must be present if PII
14 Materials are being shown to a witness or potential witness. Before
15 being shown any portion of Confidential Information, however, any
16 witness or potential witness must be informed of, and agree in
17 writing to be bound by, the requirements of the Protective Order. No
18 member of the Defense Team shall permit a witness or potential
19 witness to retain Confidential Information or any notes generated
20 from Confidential Information.

21 l. The Defense Team shall maintain Confidential
22 Information safely and securely, and shall exercise reasonable care
23 in ensuring the confidentiality of those materials by (1) not
24 permitting anyone other than members of the Defense Team, defendant,
25 witnesses, and potential witnesses, as restricted above, to see
26 Confidential Information; (2) not divulging to anyone other than
27 members of the Defense Team, defendant, witnesses, and potential
28 witnesses, the contents of Confidential Information; and (3) not

1 permitting Confidential Information to be outside the Defense Team's
2 offices, homes, vehicles, or personal presence.

3 m. To the extent that defendant, the Defense Team,
4 witnesses, or potential witnesses create notes that contain, in
5 whole or in part, Confidential Information, or to the extent that
6 copies are made for authorized use by members of the Defense Team,
7 such notes, copies, or reproductions become Confidential Information
8 subject to the Protective Order and must be handled in accordance
9 with the terms of the Protective Order.

10 n. The Defense Team shall use Confidential Information
11 only for the litigation of this matter and for no other purpose.
12 Litigation of this matter includes any appeal filed by defendant and
13 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the
14 event that a party needs to file Confidential Information with the
15 Court or divulge the contents of Confidential Information in court
16 filings, the filing should be made under seal. If the Court rejects
17 the request to file such information under seal, the party seeking
18 to file such information publicly shall provide advance written
19 notice to the other party to afford such party an opportunity to
20 object or otherwise respond to such intention. If the other party
21 does not object to the proposed filing, the party seeking to file
22 such information shall redact any PII Materials and make all
23 reasonable attempts to limit the divulging of PII Materials.

24 o. Any Confidential Information inadvertently produced
25 in the course of discovery prior to entry of the Protective Order
26 shall be subject to the terms of this Protective Order. If
27 Confidential Information was inadvertently produced prior to entry
28 of the Protective Order without being marked "CONFIDENTIAL

1 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
2 shall reproduce the material with the correct designation and notify
3 defense counsel of the error. The Defense Team shall take immediate
4 steps to destroy the unmarked material, including any copies.

5 p. Confidential Information shall not be used by any
6 member of the defense team, in any way, in any other matter, absent
7 an order by this Court. All materials designated subject to the
8 Protective Order maintained in the Defense Team's files shall remain
9 subject to the Protective Order unless and until such order is
10 modified by this Court. Upon request by the government, within 30
11 days of the conclusion of appellate and post-conviction proceedings,
12 defense counsel shall return all PII Materials, certify that such
13 materials have been destroyed, or certify that such materials are
14 being kept pursuant to the California Business and Professions Code
15 and the California Rules of Professional Conduct.

16 q. In the event that there is a substitution of counsel
17 prior to when such documents must be returned, new defense counsel
18 must be informed of, and agree in writing to be bound by, the
19 requirements of the Protective Order before defense counsel
20 transfers any Confidential Information to the new defense counsel.
21 New defense counsel's written agreement to be bound by the terms of
22 the Protective Order must be returned to the Assistant U.S. Attorney
23 assigned to the case. New defense counsel then will become the
24 Defense Team's custodian of materials designated subject to the
25 Protective Order and shall then become responsible, upon the
26 conclusion of appellate and post-conviction proceedings, for
27 returning to the government, certifying the destruction of, or
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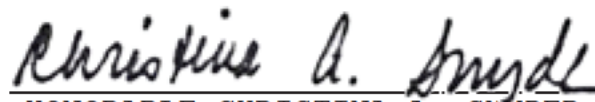
1 retaining pursuant to the California Business and Professions Code
2 and the California Rules of Professional Conduct all PII Materials.

3 r. Defense counsel shall advise defendant and all
4 members of the Defense Team of their obligations under the
5 Protective Order and ensure their agreement to follow the Protective
6 Order, prior to providing defendant and members of the Defense Team
7 with access to any materials subject to the Protective Order.

8 IT IS SO ORDERED.

9 MARCH 20 2024

10 DATE


11 HONORABLE CHRISTINA A. SNYDER
12 UNITED STATES DISTRICT JUDGE

13 Presented by:

14 /s/

15 Kedar S. Bhatia
16 Assistant United States Attorney
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